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Attorneys for Plaintiffs, on behalf of themselves and others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Katherine M. Anthony and Paul D. Gottfried, on behalf of themselves and others similarly situated, Plaintiffs, v. WALMART.COM USA LLC, WAL-MART STORES, INC. and NETFLIX, INC., Defendants.	**Case No. CV-09-0002 (PJH)** **NOTICE OF RELATED CASE PURSUANT TO CIVIL L.R. 3-12 TO BE FILED IN CASE NO. CV-09-0002 (PJH); ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED, PURSUANT TO CIVIL L.R. 7-11**

Plaintiffs Katherine M. Anthony and Paul D. Gottfried on behalf of themselves and others similarly situated (hereinafter "Plaintiffs") hereby respectfully submit this Notice of Related Case, Pursuant to Civil L.R. 3-12 and the required Administrative Motion to Consider Whether Cases Should be Related, Pursuant to Civil L. R. 7-11.

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I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12

Under Civil Local Rule 3-12, an "action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event, and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges." Civil L.R. 3-12(a).

Whenever a party knows or believes that an action may be related to an action which is or was pending in the Northern District, said party "must promptly file in the earliest-filed case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11."[1] Civil L.R. 3-12(b). That motion must include: "(1) The title and case number of each apparently related case; (2) A brief statement of the relationship of the actions according to the criteria set forth in Civil L.R. 3-12(a)."

II. *ANTHONY, SIVEK AND FARIS* ARE RELATED TO *RESNICK* AND ITS PROGENY.

The *Resnick* case was filed in this Court on January 2, 2009. Subsequently, a number of related complaints were filed. By Order dated January 16, 2009, this Court found that the following cases are related:

(1) *Resnick, et al. v. Walmart.com USA LLC, et al.*, C 09-0002

(2) *O'Connor v. Walmart.com USA LLC, et al.*, C 09-0096

(3) *Endzweig v. Walmart.com USA LLC, et al.*, C 09-00111

(4) *Schmitz v. Walmart.com USA LLC, et al.*, C 09-00116

(5) *Lynch, et al. v. Walmart.com USA LLC, et al.*, C 09-00138

(6) *Groce, et al. v. Netflix, Inc., et al.*, C 09-00139.

After the Court's January 16, 2009 order, all of the above-listed cases are assigned to Judge Phyllis J. Hamilton.

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[1] "In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of service pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related action. A Chambers copy of the motion must be lodged with the assigned Judge in each apparently related case under Civil L.R. 5-1(b)." Civil L.R. 3-12(b).

In addition to the five (5) cases previously found to be related to *Resnick,* there are three other cases which also are related to *Resnick:*

(1) The above-captioned litigation, *Anthony, et al. v. Walmart.com USA LLC, et al.,* C 09-00236 (JL) ("*Anthony*"), filed January 20, 2009;

(2) *Sivek v. Walmart.com USA LLC, et al.,* C 09-00156 (JCS) ("*Sivek*"), filed January 13, 2009; and

(3) *Faris v. Netflix, Inc., et al.,* C-09-0180 (EDL) ("*Faris*"), filed January 14, 2009.

Anthony, Sivek and *Faris* are related to *Resnick.* Like the previously-related cases, these cases involve the exact same transactions and events, the identical defendants, the identical or virtually identical allegations and causes of action, and the same proposed class of plaintiffs. Accordingly, there will be unduly burdensome duplication of labor and expense and there will be a risk of conflicting results if *Anthony, Sivek* and *Faris* are not related to *Resnick* and assigned to Judge Hamilton like the other related cases listed above.

Dated: January 20, 2009

Respectfully submitted,

By: /s/ Emily L. Maxwell

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